IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

S.B.CRIMINAL MISC. PETITION NO. 1211/2006
(Shiv Kumar Vyas Vs. State of Rajasthan)

Date of Order : 15/09/2006

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. Vishwajeet Joshi for the petitioner.
Mr. Ashok Upadhyay, public prosecutor.

BY THE COURT:-

By the instant criminal misc. petition under Section 482 Cr.P.C., the petitioner has challenged the order dated 08.2.2006 passed by Additional Chief Judicial Magistrate, (Communal Riots) Pali (for short 'the trial court' hereinafter) whereby the application filed by the petitioner seeking dispensing with his personal appearance before the trial court on 8.2.2006 though his counsel was dismissed.

I have heard learned counsel for the petitioner and public prosecutor for the State. Carefully gone through the order impugned.

It appears that not only the petitioner, other accused namely Girdharilal, Dinesh Kumar and Mahesh Kumar were not

present before the trial court on the relevant date and their counsel filed an application seeking dispensing with their personal appearance in a case instituted against them. It also appears from the order impugned that various medical certificates were also filed. The trial court instead of dispensing with the personal appearance forfeited the bail bonds and ordered to initiate proceeding under Section 446 Cr.P.C. against the petitioner.

Having regard to the facts and circumstances of the case, in my view, the trial court ought not to have forfeited the bail bonds when there was an application seeking dispensing with the personal appearance of the petitioner through counsel. In the circumstances, therefore, the order impugned cannot be sustained and is liable to be set aside qua the petitioner.

In the result, the criminal misc. petition is allowed. The order impugned dated 08.02.2006 passed by the trial court forfeiting the bail bonds and initiating the proceeding under Section 446 Cr.P.C. against the petitioner, is set aside. The petitioner shall appear before the trial court on the next date of hearing which according to learned counsel for the petitioner is 11.10.2006.

(H.R.PANWAR),J.

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